FILED OCTOBER 7, 2013

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - LOS ANGELES

In the Matter of	)	Case Nos.: **10-O-05177-RAP**
	)	**(10-O-07239; 10-O-11137**
GREGORY ALAN BAKER,	)	**10-O-11346; 11-O-12222**
	)	**11-O-112667;11-O-13640**
Member No. 194654,	)	**11-O-13989; 11-O-14737**
	)	**11-O-15431; 11-O-15438**
A Member of the State Bar.	)	**11-O-15652; 11-O-17995**
	)	**11-O-18404); 11-O-10481**
	)	**12-O-10270 (12-O-12087**
	)	**12-O-13644) (Cons.)**
	)	
	)	**DECISION INCLUDING DISBARMENT**
	)	**RECOMMENDATION AND**
	)	**INVOLUNTARY INACTIVE**
	)	**ENROLLMENT ORDER.**

Introduction[1]

This matter involves a Stipulation Re Facts, Conclusions of Law and Disposition and Order Approving that was entered into between the State Bar of California and respondent **GREGORY ALAN BAKER,** and approved by a State Bar Court Hearing Department judge. The stipulation was later returned by the California Supreme Court for further consideration of the recommended discipline in light of the applicable attorney discipline standards. In addition,

[1] Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

three other cases were consolidated for all purposes in which respondent was charged with four counts of misconduct in three client matters.

The State Bar of California is represented by Deputy Trial Counsel Anthony J. Garcia. Respondent is representing himself in this matter.

Having considered the facts and the law, the court finds respondent culpable on all counts, and recommends, among other things, that respondent be disbarred.

Significant Procedural History

The parties executed and filed a Stipulation Re Facts, Conclusions of Law and Disposition which was approved by a State Bar Court Hearing Judge on February 15, 2012.

On August 27, 2012, the Supreme Court issued ADMIN. 2012-8-22-3 ordering the stipulation matters returned to the State Bar for further consideration of the recommended discipline in light of the applicable attorney standards.[2]

On December 7, 2012, the State Bar filed a Notice of Disciplinary Charges (NDC) in State Bar Court case nos. 12-O-10270 (12-O-12087; 12-O-13644) to which respondent did not file a responsive pleading.

The matters were consolidated for all purposes pursuant to the court's December 18, 2012, order.

On April 15, 2013, respondent's default for not appearing at trial was set aside.

The case was submitted for decision at the conclusion of trial on July 22, 2013.

[2] The Stipulation Re Facts, Conclusions of Law and Disposition filed on February 15, 2012 is hereby converted to a stipulation as to facts and conclusions of law only, and State Bar Court staff is directed to remove the Stipulation Re Facts, Conclusions of Law and Disposition filed on September 15, 2012 from the State Bar's website.

Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on March 30, 1998, and has been a member of the State Bar of California at all times since that date.

The Stipulation Cases

Case No. 11-O-12222 (The Gilbert Matter)

In October 2010, respondent represented Barbara Gilbert in litigation. (*Gilbert v. World Savings Bank, et al.*, Alameda County Superior Court case no. VG10541758.)

In November 2010, World Savings Bank, now Wachovia Mortgage, removed the action to the federal district court for the Northern District of California (Northern District).

On November 22, 2010, Wachovia filed a motion to dismiss Gilbert's complaint and to strike portions of it, but respondent did not file an opposition to either motion.

On December 27, 2010, the court issued an order to show cause by January 3, 2011 why no response was filed (OSC). The court served and respondent received the OSC but did not respond to it. On January 7, 2011, the court dismissed Gilbert's lawsuit.

Respondent was unable to gain admission to practice in the Northern District between November 2010 and January 2011.[3]

On March 21, 2011, the court ordered respondent, personally, to pay Wachovia $6,519, the attorney fees it incurred in defending against Gilbert's action, as a sanction for his repeated violations of his obligations as a lawyer. Respondent never reported the sanction to the State Bar.

(Rule 3-110(A) [Failure to Perform Legal Services with Competence])

[3] The stipulated facts reference the time period between November 2010 and January 2010. The court corrects this obvious typographical error.

Rule 3-110(A) provides that an attorney must not intentionally, recklessly, or repeatedly fail to perform legal services with competence.

By not gaining admission to the Northern District; not opposing Wachovia's motions; and by allowing Gilbert's lawsuit to be dismissed as a result of his actions, respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A).

(§ 6068, subd. (o)(3) [Failure to Report Sanctions])

Section 6068, subdivision (o)(3), provides that within 30 days of knowledge, an attorney has a duty to report, in writing, to the State Bar the imposition of judicial sanctions against the attorney of $1,000 or more which are not imposed for failure to make discovery.

By not reporting the district court sanction to the State Bar, respondent failed to report to the agency charged with attorney discipline, in writing, within 30 days of the time respondent had knowledge of the imposition of any judicial sanctions against respondent in willful violation of section 6068, subdivision (o)(3).

Case No. 11-O-12667 (The Assar Matter)

On October 25, 2010, Maria Assar hired respondent to rescind the sale of her home and to modify her home loan. On that same date, she paid him $2,500 and agreed to pay him an additional $500 per month; however, he had not completed all the contracted-for services described in their engagement agreement. Assar paid respondent a total of $3,500.

In a December 2011 small claims court action, the court ruled that respondent owed Assar $1,000. On an unknown date, respondent satisfied the judgment.

(§ 6106.3 [Illegal Advanced Fee for Loan Modification Services])

Section 6106.3 makes violations of Civil Code section 2944.7 disciplinable offenses. The latter, in relevant part, prohibits negotiating, arranging or otherwise offering to perform a mortgage loan modification or other form of loan forbearance for a fee or other compensation paid by the borrower and claiming, demanding, charging, collecting or receiving any such fee or other compensation until after each and every service contracted for has been fully performed. Civil Code section 2944.7 became effective on October 11, 2009.

By charging advanced fees in exchange for agreeing to perform loan modification services in violation of Civil Code section 2944.7(a)(1), respondent willfully violated section 6106.3.

Case No. 11-O-13640 (The Bailey Matter)

In May 2010, Yvonne and Christopher Bailey paid respondent $11,000 in advanced fees to modify their home loan and to stop its foreclosure sale scheduled for June 2010. When they paid him, respondent had not completed all the contracted-for services described in their engagement agreement.

Between June and December 2010, respondent took actions that postponed the sale of the Baileys' home.

In January 2011, the Baileys terminated respondent's employment and demanded that he refund their unearned fees. Respondent had an obligation to provide an accounting to the Baileys, but did not do so.

(§ 6106.3 [Illegal Advanced Fee for Loan Modification Services])

By charging advanced fees in exchange for agreeing to perform loan modification services in violation of Civil Code section 2944.7(a)(1), respondent willfully violated section 6106.3.

(Rule 4-100(B)(3) [Maintain Records of Client Property/Render Appropriate Accounts])

Rule 4-100(B)(3) provides that an attorney must maintain records of all client funds, securities and other properties coming into the attorney's possession and render appropriate accounts to the client regarding such property.

By not providing an accounting to the Baileys that documented the amount of their advance fee that he earned, respondent failed to render appropriate accounts to a client regarding all funds corning into respondent's possession in willful violation of rule 4-100(B)(3).

Case No. 11-O-13989 (The Salvador Matter)

On November 25, 2009, Rosa Salvador hired respondent to modify her home loan. She paid him $2,000 and agreed to pay him an additional $500 monthly. She paid him a total of $5,000 as advanced fees for his legal services. When Salvador paid respondent the $2,000 advanced fee, he had not completed all the contracted-for services described in their engagement agreement.

(§ 6106.3 [Illegal Advanced Fee for Loan Modification Services])

By charging advanced fees in exchange for agreeing to perform loan modification services in violation of Civil Code section 2944.7(a)(1), respondent willfully violated section 6106.3.

Case No. 11-O-14737 (The Deacon Matter)

On April 24, 2010, Wisconsin residents Ian and Tammy Deacon hired respondent to modify their home loan and paid him $3,000 for his legal services. Respondent accepted this

matter under the mistaken belief that loan modification services did not constitute the practice of law. In so doing, respondent practiced law in Wisconsin, where he has never been licensed to do so.

(Rule 1-300(B) [Prohibition on Practicing Law in Violation of Other Jurisdiction's Professional Regulations])

Rule 1-300(B) provides that an attorney must not practice law in a jurisdiction where to do so would be in violation of regulations of that jurisdiction's profession.

By representing the Deacons in their Wisconsin loan modification matter, respondent practiced law in a jurisdiction where doing so violates the regulations of the profession in that jurisdiction in willful violation of rule 1-300(B).

(Rule 4-200(A) [Illegal Fee])

Rule 4-200(A) provides that an attorney must not charge, collect or enter into an agreement for an illegal or unconscionable fee.

By collecting a fee for legal services in a jurisdiction where respondent is not authorized to practice law, respondent entered into an agreement for, charged or collected an illegal fee in willful violation of rule 4-200(A).

Case No.11-O-15431 (The Frausto Matter)

On May 17, 2011, Luis and Alma Frausto hired respondent to sue Wells Fargo Bank for denying their loan modification and paid him $14,800 for his legal services.

On July 16, 2011, respondent filed a lawsuit against Wells Fargo in Los Angeles Superior Court, but Wells Fargo removed it to federal district court and moved to dismiss it. (*Frausto v. Wells Fargo*, United States District Court, Central District of California, case no. CV 10-06203 GAF.)

On October 14, 2011, respondent timely filed the First Amended Complaint.

On January 3, 2011, the court granted Wells Fargo's motion to dismiss the First Amended Complaint and gave respondent leave to amend until January 24, 2011. Respondent had notice of the court's action, but never filed a Second Amended Complaint. He abandoned the case.

On February 14, 2011, the court dismissed the case, finding that the First Amended Complaint failed to state claims with sufficient factual content to sustain the action.

After the Fraustos' case was dismissed, respondent never sent the Fraustos an accounting of the advanced fees they had paid him or a refund of any unearned part thereof.

(Rule 3-700(A)(2) [Improper Withdrawal from Employment])

Rule 3-700(A)(2) prohibits an attorney from withdrawing from employment until the attorney has taken reasonable steps to avoid reasonably foreseeable prejudice to the client's rights, including giving due notice to the client, allowing time for the employment of other counsel, and complying with rule 3-700(D) and other applicable rules and laws.

By not filing the second amended complaint or taking any action to vacate the dismissal of the lawsuit against Wells Fargo, respondent effectively withdrew from employment as of February 14, 2011, and did not take reasonable steps to avoid reasonably foreseeable prejudice to his client in willful violation of rule 3-700(A)(2).

(Rule 4-100(B)(3) [Maintain Records of Client Property/Render Appropriate Accounts])

By not providing the Fraustos an accounting of the advance fee that they paid him, respondent failed to render appropriate accounts to a client regarding all funds coming into respondent's possession in willful violation of rule 4-100(B)(3).

Case No. 11-O-15438 (The Doss Matter)

On February 17, 2011, Tonita Doss hired respondent to modify her home loan and paid him a total of $6,000 in advance fees for his legal services. When she paid him the fees, he had not completed all the contracted-for services described in their engagement agreement.

(§ 6106.3 [Illegal Advanced Fee for Loan Modification Services])

By charging advanced fees in exchange for agreeing to perform loan modification services in violation of Civil Code section 2944.7(a)(1), respondent willfully violated section 6106.3.

Case No. 11-O-15652 (The Dyball Matter)

On June 18, 2008, Phil Dyball hired respondent in a marital dissolution matter and paid him $2,320 as an advance fee for his legal services.

On June 30, 2008, respondent filed a petition for dissolution of marriage for Dyball in Orange County Superior Court and then took no further action on the matter.

Between June and September 2008, Dyball tried to contact respondent on multiple occasions; however, respondent never communicated with him after June 2008 or respond to his reasonable status inquiries, which respondent received.

On September 5, 2008, Dyball hired new counsel to handle his dissolution. Dyball's new attorney learned that respondent vacated his office in August 2008. Respondent never informed Dyball that he was vacating his office or how to contact him thereafter.

Respondent has not provided Dyball an accounting of the advance fees respondent earned.

(§ 6068, subd. (m) [Failure to Communicate])

Section 6068, subdivision (m), provides that an attorney has a duty to promptly respond to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments in matters with regard to which the attorney has agreed to provide legal services.

By not informing Dyball that he was closing his office and by not giving Dyball his new contact information, respondent failed to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services in willful violation of section 6068, subdivision (m).

(Rule 3-700(A)(2) [Improper Withdrawal from Employment])

Respondent effectively withdrew from employment as of June 2008 and did not take reasonable steps to avoid reasonably foreseeable prejudice to his client in willful violation of rule 3-700(A)(2).

(Rule 4-100(B)(3) [Maintain Records of Client Property/Render Appropriate Accounts])

By not providing Dyball an accounting of the advance fees respondent earned, respondent did not render appropriate accounts to a client regarding all funds coming into his possession in willful violation of rule 4-100(B)(3).

Case No. 10-O-11137 (The Hoxmeier Matter).

On November 18, 2009, Oregon resident Steve Hoxmeier hired respondent to modify his home loan and paid him $1,500 for his legal services. Respondent accepted this matter under the mistaken belief that loan modification services did not constitute the practice of law. In so doing, respondent practiced law in Oregon, where he has never been licensed to do so.

(Rule 1-300(B) [Prohibition on Practicing Law in Violation of Other Jurisdiction's Professional Regulations])

By representing Hoxmeier in his loan modification matter, respondent practiced law in a jurisdiction where doing so violates the regulations of the profession in that jurisdiction in willful violation of rule 1-300(B).

(Rule 4-200(A) [Illegal Fee])

By collecting a fee for legal services in a jurisdiction where respondent is not authorized to practice law, respondent entered into an agreement for, charged or collected an illegal fee in willful violation of rule 4-200(A).

Case No. 10-O-11346 (The Johnson Matter)

In October 2009, Ohio resident Melinda Johnson hired respondent to modify the loans on two properties that she owned and paid him $5,000 for his legal services. Respondent accepted this matter under the mistaken belief that loan modification services did not constitute the practice of law. In so doing, respondent practiced law in Ohio, where he has never been licensed to do so.

(Rule 1-300(B) [Prohibition on Practicing Law in Violation of Other Jurisdiction's Professional Regulations])

By representing Johnson in her loan modification matters, respondent practiced law in a jurisdiction where doing so violates the regulations of the profession in that jurisdiction in willful violation of rule 1-300(B).

(Rule 4-200(A) [Illegal Fee])

By collecting a fee for legal services in a jurisdiction where respondent is not authorized to practice law, respondent entered into an agreement for, charged or collected an illegal fee in willful violation of rule 4-200(A).

Case No. 10-007239 (The Bucher Matter)

On March 19, 2010, Jerry Bucher hired respondent to modify his home loan, paid him $1,500 down and promised to pay an additional $1,500 for his legal services. At that time, respondent had not completed all the contracted-for services described in their engagement agreement.

(§ 6106.3 [Illegal Advanced Fee for Loan Modification Services])

By charging advanced fees in exchange for agreeing to perform loan modification services in violation of Civil Code section 2944.7(a)(1), respondent willfully violated section 6106.3.

Case No. 10-O-05177 (The Drake Matter)

On November 19, 2009, Washington resident Brandon Drake hired respondent to modify his home loan and paid him $3,000 for his legal services. Respondent accepted this matter under the mistaken belief that loan modification services did not constitute the practice of law. In so doing, respondent practiced law in Washington, where he has never been licensed to do so.

(Rule 1-300(B) [Prohibition on Practicing Law in Violation of Other Jurisdiction's Professional Regulations])

By representing Drake in his loan modification matter, respondent practiced law in a jurisdiction where doing so violates the regulations of the profession in that jurisdiction in willful violation of rule 1-300(B).

(Rule 4-200(A) [Illegal Fee])

By collecting a fee for legal services in a jurisdiction where respondent is not authorized to practice law, respondent entered into an agreement for, charged or collected an illegal fee in willful violation of rule 4-200(A).

Case No. 11-O-17295 (The Barr Matter)

On May 31, 2011, Lynn Barr hired respondent to modify her home loan and paid him $6,000 as an advance fee for his legal services; however, respondent had not completed all the contracted-for services described in their engagement agreement on that date.

(§ 6106.3 [Illegal Advanced Fee for Loan Modification Services])

By charging advanced fees in exchange for agreeing to perform loan modification services in violation of Civil Code section 2944.7(a)(1), respondent willfully violated section 6106.3.

Case No. 11-O-18404 (The Peralta-Cruz Matter)

On June 7, 2010, Yolanda Peralta-Cruz hired respondent to modify her home loan and paid him $2,000 as an advance fee for his legal services; however, he had not completed all the contracted-for services described in their engagement agreement on that date.

(§ 6106.3 [Illegal Advanced Fee for Loan Modification Services])

By charging advanced fees in exchange for agreeing to perform loan modification services in violation of Civil Code section 2944.7(a)(1), respondent willfully violated section 6106.3.

Case No. 11-O-l0481 (The Bartlett Matter)

On January 27, 2010, Maryland resident Larry Bartlett, Sr., hired respondent to modify his home loan and paid him $3,500 for his legal services. Respondent accepted this matter under

the mistaken belief that loan modification services did not constitute the practice of law. In so doing, respondent practiced law in Maryland, where he has never been licensed to do so.

(Rule 1-300(B) [Prohibition on Practicing Law in Violation of Other Jurisdiction's Professional Regulations])

By representing Bartlett in a loan modification matter, respondent practiced law in a jurisdiction where doing so violates the regulations of the profession in that jurisdiction in willful violation of rule 1-300(B).

(Rule 4-200(A) [Illegal Fee])

By collecting a fee for legal services in a jurisdiction where respondent is not authorized to practice law, respondent entered into an agreement for, charged or collected an illegal fee in willful violation of rule 4-200(A).

The NDC Cases

Case No. 12-O-10270 – (The Visounnarajes Matter)

On December 29, 2009, Lanekhamdaeng and Souk Visounnaraj employed respondent to negotiate a mortgage loan modification on their behalf and paid him $3,500 as an advanced fee for his legal services. Respondent collected $3,500 from them before completing all of the loan modification services he had agreed to perform.

On September 15, 2011, the Visounnarajes contacted respondent, terminated his employment and demanded a refund of their advance fee.

On January 17, 2012, the Visounnarajes filed a complaint against respondent with the State Bar of California.

On April 4, 2012, respondent prepared a mutual release and settlement agreement for the Visounnarajes to sign. In the release, respondent agreed to refund the Visounnarajes' fees by

paying them $700 per month for five months, beginning on April 13, 2012, if they agreed to withdraw their State Bar complaint. They signed the release on April 4, 2012, and, on April 10, 2012, sent the State Bar a letter withdrawing their complaint against respondent.

In August 2012 respondent made his last payment to the Visounnarajes and refunded the entire $3,500 advanced fee.

Count One - ***(§ 6106.3 [Illegal Advanced Fee for Loan Modification Services])***

By charging advanced fees in exchange for agreeing to perform loan modification services in violation of Civil Code section 2944.7(a)(1), respondent willfully violated section 6106.3.

Count Two - (§ 6090.5, subd. (a)(1) [Attorney/Client Agreement Not To File Complaint])

Section 6090.5, subdivision (a)(1), provides that an attorney must not agree or seek agreement that professional misconduct or the terms of a settlement of a claim of professional misconduct would not be reported to the disciplinary agency.

There is clear and convincing evidence that respondent entered into an agreement with his client that his professional misconduct would not be reported to the State Bar in willful violation of section 6090.5, subdivision (a)(1), by preparing and having them sign the release whereby the Visounnarajes agreed to withdraw their State Bar complaint against him.

Case No. 12-O-12087 – (The Montemayor Matter)

On February 6, 2010, Maurena Montemayor employed respondent through Ideal Real Estate Solutions to negotiate a mortgage loan modification on her behalf. On March 19, 2010, Montemayor paid respondent $1,500 as an advanced fee for his legal services. Respondent

collected $1,500 from Montemayor prior to completing all of the loan modification services he had agreed to perform.

In May 2010 Montemayor called respondent and left a message informing him that she was terminating his services and demanded a refund. Respondent received the message but has not refunded any money to her.

Count Three - ***(§ 6106.3 [Illegal Advanced Fee for Loan Modification Services])***

By charging advanced fees in exchange for agreeing to perform loan modification services in violation of Civil Code section 2944.7(a)(1), respondent willfully violated section 6106.3.

Case No. 12-O-13644 – (The Leiva Matter)

On May 5, 2010, Jorge Leiva employed respondent through Ideal Real Estate Solutions to negotiate a mortgage loan modification on his behalf. Between May 14 and August 31, 2010, Leiva made monthly payments to respondent totaling $3,000 as advance fees for his legal services. Respondent collected the funds from Leiva prior to completing all of the loan modification services he had agreed to perform.

On January 26, 2012, Leiva sent and respondent received a letter terminating his services.

In March 2012, Leiva called respondent and demanded a refund of his advance fee. Respondent offered a $500 refund but Leiva refused it. Leiva informed respondent that he wanted a refund of the entire $3,500. Respondent has not refunded any money to Leiva.

Count Four – (§ 6106.3 [Illegal Advanced Fee for Loan Modification Services])

By charging advanced fees in exchange for agreeing to perform loan modification services in violation of Civil Code section 2944.7(a)(1), respondent willfully violated section 6106.3.

Aggravation

Multiple Acts and Pattern of Misconduct (Std. 1.2(b)(ii).)[4]

Respondent engaged in multiple acts and a pattern of misconduct between approximately June 2008 and April 2012. He engaged in repeated violations of section 6106.3 and rules 1-300(B) and 4-200(A), a pattern of taking advantage of distressed homeowners by taking fees contrary to California law and also by taking fees illegally in states where he was not admitted to practice.

Harm to Client/Public/Administration of Justice (Std. 1.2(b)(iv).)

In general, respondent exploited his fiduciary position and took advantage of financially-desperate homeowners. (*In the Matter of Taylor* (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221, 235.) The Fraustos' and Gilbert's cases were dismissed. Dyball had to retain new counsel. Montemayor, Leiva and other clients suffered significant harm due to respondent's failure to return their advanced legal fees for years.

Mitigation

No Prior Record (Std. 1.2(e)(i).)

Respondent practiced law for 10 years prior to the commencement of the misconduct herein.

Candor/Cooperation to Victims/State Bar (Std. 1.2(e)(v).)

Respondent entered into a stipulation as to facts and conclusions of law and to the admission of documents at trial.

[4] All references to standards (std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession, and to maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; std. 1.3.)

The State Bar recommends disbarment whereas respondent seeks a period of actual suspension. The court believes that, in this instance, disbarment is appropriate given the nature and extent of the misconduct and the absence of compelling mitigation.

In this matter, respondent has been found culpable in 18 client matters of violating sections 6068, subdivisions (m) and (o) (one count each), 6106.3 (10 counts) and rules 3-110(A) (one count), 3-700(A)(2) (two counts), 4-100(B)(3) (three counts), 1-300(B) and 4-200(A) (five counts each). The misconduct commenced in June 2008. Mitigating factors were no prior discipline in 10 years of practice and candor and cooperation. In aggravation, the court considered multiple acts of misconduct and harm.

Standard 1.6 provides that the appropriate sanction for the misconduct found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of imposing discipline. If two or more acts of professional misconduct are found in a single disciplinary proceeding, the sanction imposed shall be the most severe of the applicable sanctions. (Std. 1.6(a).) Discipline is progressive. However, the standards do not require a prior record of discipline as a prerequisite for imposing any appropriate sanction, including disbarment. (Std. 1.7(c).)

Standards 2.2(b), 2.4(b), 2.6, 2.7 and 2.10 apply in this matter. Of these, the most severe sanction is prescribed by standard 2.2(b) which suggests at least three months' actual suspension regardless of mitigation for commingling entrusted and personal funds or property or committing other rule 4-100 violations not resulting in willful misappropriation.

The Supreme Court gives the standards "great weight" and will reject a recommendation consistent with the standards only where the court entertains "grave doubts" as to its propriety. (*In re Silverton* (2005) 36 Cal.4th 81, 91, 92; *In re Naney* (1990) 51 Cal.3d 186, 190.) Although the standards are not mandatory, they may be deviated from when there is a compelling, well-defined reason to do so. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1061, fn. 2; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.)

Due to the nature and extent of this misconduct, the court finds that respondent's disregard of his clients' interests was habitual and evidences a pattern of unethical behavior that requires disbarment. In 18 client matters over a nearly four-year period, respondent repeatedly exploited his fiduciary position and took advantage of financially-distressed homeowners by taking fees contrary to California law and also by taking fees illegally in states where he was not admitted to practice, among other things.

Cases involving a pattern of misconduct even when the attorney has no prior record of discipline, generally result in the attorney's disbarment. (*In re Billings* (1990) 50 Cal.3d 358 [15 matters of partial or complete abandonment of clients; disbarment]; *Coombs v. State Bar* (1989) 49 Cal.3d 679 [13 matters of failure to perform services; disbarment]; *In the Matter of Hindin* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657 ["panoply" of misconduct affecting more than 20 clients over a 10-year period; disbarment]; *In the Matter of Collins* (Review Dept. 1992)

2 Cal. State Bar Ct. Rptr. 1 [14 matters involving systematic failures to competently perform and client abandonment; disbarment].)

When disbarment is not so imposed, the attorney provided significant mitigation beyond merely having a discipline-free practice. (*Pineda v. State Bar*, 49 Cal. 3d 753 (1989) 49. Cal.3d 753 [Although attorney failed to competently perform and abandoned clients in seven matters, disbarment was not called for in view of mitigating factors, including the attorney's cooperation with the State Bar throughout the disciplinary proceedings, his demonstrated remorse and determination to rehabilitate himself, and his concurrent family problems]; *Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071 [Ethical violations in 14 matters demonstrating a pattern of misconduct involving client abandonment did not warrant disbarment in light of fact that attorney fully cooperated with the State Bar in the proceedings, attorney was experiencing severe financial and emotional problems during period of misconduct, and attorney thereafter substantially improved her condition through counseling]; *Frazer v. State Bar* (1987) 43 Cal.3d 564 [Disbarment not recommended where attorney failed to perform competently and abandoned clients in 14 matters due to evidence of attorney's financial problems, depression, agoraphobia and rehabilitation therefrom].) The instant case is devoid of compelling mitigation which could justify a discipline recommendation short of disbarment.

This case is distinguishable from another loan modification case, *In the Matter of Taylor, supra*, 5 Cal. State Bar Ct. Rptr. 221, in that the instant case presents significantly greater misconduct involving more clients and over an extended period of time as well as more mitigation and much more aggravation. In *Taylor*, the attorney was placed on actual suspension for six months and until restitution was made for charging illegal fees in eight client matters during a six-month period. Aggravating factors included multiple acts of misconduct, harm and

indifference. The sole mitigating factor was evidence of good character, the weight of which was discounted.

Lesser discipline than disbarment is not warranted. The serious, habitual nature of the misconduct as well as the absence of compelling mitigating factors suggest that respondent is capable of future wrongdoing and raise grievous concerns about his ability or willingness to comply with his ethical responsibilities to the public, the administration of justice and to the legal profession. Having considered the evidence, the standards and other relevant law, the court believes that disbarment is the only adequate means of protecting the public from further wrongdoing by respondent. Accordingly, the court so recommends.

Recommendations

It is recommended that respondent GREGORY ALAN BAKER, State Bar Number 194654, be disbarred from the practice of law in California and respondent's name be stricken from the roll of attorneys.

It is also recommended that respondent be ordered to make restitution to the following payees (or reimburses the Client Security Fund, to the extent of any payment from the fund to the payees, in accordance with Business and Professions Code section 6140.5) and furnishes proof to the State Bar's Office of Probation in Los Angeles:

(1) Yvonne and Christopher Bailey in the amount of $11,000.00 plus 10 percent interest per year from May 31, 2010;

(2) Rosa Salvador in the amount of $5,000.00 plus 10 percent interest per year from November 25, 2009;

(3) Ian and Tammy Deacon in the amount of $3,000.00 plus 10 percent interest per year from April 24, 2010;

(4) Tonita Doss in the amount of $6,000.00 plus 10 percent interest per year from February 17, 2011;

(5) Steve Hoxmeier in the amount of $1,500.00 plus 10 percent interest per year from November 18, 2009;

(6) Melinda Johnson in the amount of $5,000.00 plus 10 percent interest per year from October 31, 2009;

(7) Jerry Bucher in the amount of $1,500.00 plus 10 percent interest per year from March 19, 2010;

(8) Brandon Drake in the amount of $3,000.00 plus 10 percent interest per year from November 19, 2009;

(9) Lynn Barr in the amount of $6,000.00 plus 10 percent interest per year from May 31, 2011;

(10) Yolanda Peralta-Cruz in the amount of $2,000.00 plus 10 percent interest per year from June 7, 2010;

(11) Larry Bartlett, Sr., in the amount of $3,500.00 plus 10 percent interest per year from January 27, 2010;

(12) Maurena Montemayor in the amount of $1,500.00 plus 10 percent interest per year from March 19, 2010; and

(13) Jorge Leiva in the amount of $3,500.00 plus 10 percent interest per year from July 7, 2010.[5]

California Rules of Court, Rule 9.20

It is further recommended that respondent be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding. Failure to do so may result in disbarment or suspension.

Costs

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

[5] This date is about equidistant between May 14 and August 31, 2010, the dates between which Leiva made monthly payments to respondent.

Order of Involuntary Inactive Enrollment

Respondent is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the State Bar Rules of Procedure, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Dated: October 7, 2013

RICHARD A. PLATEL
Judge of the State Bar Court